

# Town of Carlisle

MASSACHUSETTS 01741

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Office of  
**PLANNING BOARD**

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## **Minutes July 15, 2019**

**Minutes 6/10/19**

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**Request for initial discussion of possible future Town acceptance of private portion of Munroe Hill Road (Request of Paul Gaboury)**

**Request for release of Lot 4 from the Restrictive Covenant for Lion's Gate Definitive Subdivision Plan (Request of Stephen Defoe on behalf of Lion's Gate LLC)**

**Lapse of Common Driveway Special Permit for 61 Judy Farme Road (Adam Ostrow, applicant) 4<sup>th</sup> extension expired June 30, 2019 without exercise of the rights of the permit.**

**Master Plan Steering Committee update**

**ANR Plan: 46 Virginia Farme Lane (Map 20, Lot 36-3), Mosaic Homes LLC (Paul Gaboury, applicant)**

Vice Chair **Jonathan Stevens** called the meeting to order at 7:30 pm in the Clark Room of Town Hall. Members **Ed Rolfe, Jason Walsh, Peter Yelle, Rob Misek** Associate Member **Tom Lane**, and **Planning Administrator George Mansfield** were present. Chair **Peter Gambino** and member **Madeleine Blake** were absent.

Assistant to Planner Gretchen Caywood, Dan Gainsboro (NOW Communities, LLC, Concord, MA), Dan Carr (Stamski and McNary, Inc., Acton, MA), Jonathan Hedlund (Nitsch Engineering, Boston, MA), David Freedman (Hutchins Rd), Conservation Administrator Sylvia Willard (Bellows Hill Rd), Trails Committee Vice Chair Steve Tobin (Partridge Ln), Paul Gaboury (Mosaic Homes LLC, Acton, MA), Stephen Defoe (SCD Construction, Acton, MA), Charles Tilford (West St), Teresa Winstead (West St), and Bob Zielinski (Carlisle *Mosquito*) were also in attendance.

### **Minutes**

The Planning Board (PB) reviewed the draft Minutes from the 6/10/19 meeting and one scrivener's error was noted. Walsh moved that the PB approve the Minutes as amended, Misek seconded the motion, and it was approved unanimously (5-0).

### **Appointment of Associate Member**

Planning Administrator Mansfield reported that Tom Lane was jointly appointed to Associate Membership of the PB by the PB and the Selectmen (BOS) on July 9. Lane reported that he has been sworn in to this office by the Town Clerk.

### **August, September meeting dates**

On discussion, the PB agreed on the following meeting dates:

August 12 or 19 (one meeting to be confirmed)

September 16 and 30

Vice Chair Stevens asked that further discussion of the August meeting take place at the next PB meeting (July 29), but that the dates be posted as tentative for now.

**Continued public hearing on application for Special Permit for a Residential Open Space Community (ROSC) for development of the 44.9 ac. Parcel 10-4-X (between 767 and 871 Bedford Road) [NOW Communities, LLC, Concord, MA, applicant]**

Vice Chair Stevens opened the continued hearing and informed those in attendance that Associate PB member Tom Lane had been reappointed to a new term which started July 1, and he again appointed Lane as a voting member for this application. Vice Chair Stevens also pointed out that although Chair Gambino is not in attendance this evening, he is recused from the PB for this hearing, being an abutter to the subject property, and that Misek is no longer eligible to vote on this application, having missed two sessions of the public hearing. Stevens also confirmed that although Blake is not in attendance this evening, she will review the documents and draft Minutes related to this hearing session prior to the next session, therefore remaining qualified to vote on this special permit application.

Applicant Dan Gainsboro (NOW Communities LLC) summarized that tonight he plans to discuss the status of the legal documents for this development, the status of peer review, provide an update on a discussion with the Fire Chief, as well as an update on the Board of Health (BOH) and Conservation Commission (ConsCom) review of this project, and also discuss trails at the site. He first asked his engineer Dan Carr (Stamski and McNary, Inc.) to review the most recent plan set (dated 5/30/19) and the proposed updates to it.

Carr explained that on the 5/30/19 plan set, the infiltration basin details have been updated, and the roadway has been identified as "Kay's Walk," a name approved by the Woodward family and with which the Fire Chief and Police Chief have agreed. Carr reminded the Board that the updated Construction Management Plan and a sequencing plan had been presented at the last hearing, and he explained that the updated landscape plan dated 5/23/19 is the final one, adding that the landscape plan and ROSC plan set are now consistent with each other. Carr added that the 5/30/19 plan set depicts a centralized recycle and trash area near car barn #2. Yelle asked where lawn and yard debris would be placed, and Gainsboro said that while there is not a specific site designated on the plans, stockpiling of these items would not be allowed, with this restriction included in the legal documentation for this development.

Carr spoke about possible future plan changes, noting that the BOH's independent review engineer has requested a slight increase in groundwater mounding for the septic leach field, and that it will likely be raised either 6 or 9 inches from the proposed design. David Freedman (Hutchins Rd) asked if this change would impact anything else in the site design. PB review engineer Jonathan Hedlund (Nitsch Engineering) explained that there could be a slight overall increase in fill for the site, with a slight revision to cut and fill calculations, but no substantial change. Planning Administrator Mansfield asked whether there could be any effect on stormwater management due to potential grading changes resulting from this change, and Hedlund said that if the proposed stormwater features are kept the same, it will not be an issue.

Carr reported that he, George Dimakarakos (Stamski and McNary, Inc), Gainsboro and Freedman had met with Fire Chief Sorrows and reviewed the road layout and proposed signage, and that the Fire Chief is in agreement with these items as proposed. Carr said that the Fire Chief is also in agreement with the following signs:

- two proposed "emergency access only" signs to be placed at vehicular access points to the village green,
- a proposed parking layout map sign for the village green,
- a proposed sign for the fire cistern and fire truck turnout area where the mailbox will be located, indicating "5 minute maximum for parking,"
- a proposed sign for the trailhead parking indicating dawn to dusk parking only (this sign will be documented on the next plan set).

He added that the Fire Chief has requested a profile of the proposed 5-ft. sidewalk with the 5-ft. grass paver area, and this will be provided. Gainsboro said that the condominium documents will include that this "emergency access path" will always be plowed. Carr explained that the Fire Chief has asked for a condition to be included in the special permit decision that will allow the Town to install "no parking" signs along the proposed Kay's Walk if needed, as determined by the Fire Chief. Freedman explained that Town Counsel will draft this condition to be included in the special permit decision. Vice Chair Stevens confirmed with Gainsboro that the house numbers as

indicated on the plan will be the assigned street addresses for the units. Yelle confirmed from Gainsboro that the Fire Chief is in agreement with the proposed 40,000 gallon fire cistern.

Regarding the stone walls that run through the site and that will need to be removed for construction, Carr proposed using these stones to outline the back of the lots adjacent to the common area, and the PB agreed with this approach. Vice Chair Stevens asked about the ConsCom request for boundary markers for the open space (OS), and Freedman confirmed that they have met with the Conservation Administrator and that in order to form and document the Conservation Restriction (CR), the OS needs to be entirely bounded. Carr confirmed that an 18-inch reveal will be used for these bounds.

Gainsboro explained that his attorney and Town Counsel are coordinating final changes to the legal documents for this development, and these will include the Fire Chief's input from today's meeting. Hedlund asked that maintenance of the drainage system be added to the Covenant for Operation and Maintenance. Freedman also pointed out that in the new plan set, a public access easement will be defined on the roadway, and will be referenced in the easement document. Freedman said that a new set of legal documents will be provided by Monday, 7/22/19.

Vice Chair Stevens asked for any additional questions from the PB, and there were none.

Trails Committee (TrailsCom) Vice Chair Steve Tobin said that he and TrailsCom Chair Marc Lamere have reviewed the Trail easement document and are in agreement with it, noting that the document addresses an access easement and trails parking.

Hedlund confirmed that the applicant has made all necessary changes to the plans to address his concerns. Vice Chair Stevens asked Hedlund to provide a written statement to this effect to the Board, as well as his comments regarding revision of the Covenant for Operation and Maintenance.

Vice Chair Stevens opened this hearing to additional public comment, and there was none. Planning Administrator Mansfield will provide a draft decision outline to the Board in advance of the next meeting.

Walsh moved and Rolfe seconded the continuation of this public hearing to 8:15 pm on 7/29/19, and the motion was approved 6-0-1 (Misek abstained). Lane left the meeting at this point

Documents on record used in the discussion of this topic (on file in the PB office):

- Landscape Plan set entitled "Woodward Village, Bedford Road, Carlisle, MA" prepared by Stamski and McNary, Inc. dated 2/6/18, last revised 5/23/19.
- Site Plan set entitled "Woodward Village: A Residential Open Space Community, Bedford Road, Parcel 10-4-X, Carlisle, MA" prepared by Stamski and McNary, Inc. dated 2/6/18, last revised 5/30/19.
- email from Police Chief John Fisher to George Mansfield dated 6/27/19 re: "Special Permit Bedford Road"
- Email from Marc Lamere to George Mansfield et al dated 7/11/19 re: "Trails Committee feedback concerning NOW Communities Trail Easement document"
- Email from Sylvia Willard to Dan Carr et al dated 7/11/19 re: "Bounds heads and markers head-up"

**Request for initial discussion of possible future Town acceptance of private portion of Munroe Hill Road (Request of Paul Gaboury)**

Paul Gaboury (Mosaic Homes LLC) had submitted an ANR for the 46 Virginia Farme Lane parcel in late 2018 which was endorsed by the Board and divided the parcel into 2 lots. The portion of Munroe Hill Rd which remains a private way borders the lot still owned by Mosaic Homes LLC, and Gaboury had requested a discussion to determine if the PB would consider support of an article for a future Town Meeting requesting that the Town accept this portion as a public way. While the rest of Munroe Hill Road is a public way, Gaboury explained that a condition of the original Munroe Hill Subdivision approval was that the pre-existing portion of Munroe Hill Road remain a private way up to the point of the first lot in that subdivision. Gaboury further explained that the Town has been plowing and maintaining this private

portion of Munroe Hill Road since the subdivision was approved in 1980, even though the roadway section is designated private.

Gaboury explained that while there is a Homeowners' Trust in place for the subdivision, there has not been a Trustee for about 15 years, and no one wants to assume the role. He said that it would require a vote of all current owners in the subdivision in order to bring this matter to a Town Meeting vote, and he asked for a sense of the Board as to whether it would support such a request if it was brought forward. Gaboury explained that while he has sold one of the two lots formed by the recent ANR, he still owns the one bordered by the private section of Munroe Hill Road. He has an interested buyer for the lot, but this buyer is hesitant about use of the private section of Munroe Hill Road for access to the lot, having concerns about the current status of the Trust for private way maintenance. Gaboury explained that he is willing to seek the signatures of the subdivision lot owners, but would just like to know that the PB would not oppose such an article to Town Meeting.

Gaboury explained that the ANR he has before the Board later this evening is a second approach to addressing this matter. Its purpose is to adjust the lot lines of the two lots created by the prior ANR in order to provide for possible access from Virginia Farme Ln for the lot he seeks to sell.

Planning Administrator Mansfield explained that the 4/25/83 Town Meeting had voted on an Article [22] to accept Munroe Hill Road as a Town roadway, except for the portion indicated on the Munroe Hill Subdivision Plan, a copy of which had been provided to the Board.

On discussion, Rolfe suggested that Town Counsel's opinion be sought as to whether a "reversal" of this TM decision is possible. Vice Chair Stevens pointed out that two questions must be addressed:

- can the private section of Munroe Hill Rd legally be accepted by the Town, given the prior Town Meeting vote, and
- is the roadway in a condition the Town can accept (per determination of the DPW Superintendent)?

Vice Chair Stevens asked Gaboury to provide the Deed to the private section of roadway to Planning Administrator Mansfield, and assured him that the PB will look into the potential legalities of the Town accepting this section of the roadway.

Documents on record used in the discussion of this topic (on file in the PB office):

- letter to Carlisle Planning Board from Paul Gaboury dated 6/21/19, re: "Munroe Hill Private Way" with attachments.
- memo to Carlisle Planning Board from Paul Gaboury dated 7/11/19 re: "Request for waiver of per lot fees on land swap"
- "Definitive Subdivision Plan of Land in Carlisle, MA" for "Homesites on Munroe Hill" last revised on 9/17/79 by R.D. Nelson (Concord, MA) for Munroe Hill Associates

**Request for release of Lot 4 from the Restrictive Covenant for Lion's Gate Definitive Subdivision Plan (Request of Stephen Defoe on behalf of Lion's Gate LLC)**

Stephen Defoe, new principal of Lion's Gate LLC, had submitted a written request to the PB for release of Lot 4 from the Covenant for Lion's Gate Subdivision. Defoe updated the Board on the status of ownership of the individual lots, indicating that Lot 3 has been built out and sold, lots 4 and 1 have been sold to local builders, and he will be building the residence on Lot 2. He said that the cistern is functional, and he also said that the Fire Chief willing to sign off to that effect, and that the well for the cistern is in place. He added that the site has been cleaned of debris, graded, and the drainage structures are in place. Defoe said he has a 1 year extension on the Order of Conditions with the Conservation Commission (ConsCom).

Defoe explained that he would like to hold off on installing the finish coat of paving and the curbing for the roadway, as they will likely get ruined as construction takes place on Lot 2. He referred to a letter submitted by his engineer, and the attached prior list of remaining work (April 2018) with estimated costs totaling \$207,929.

Planning Administrator Mansfield explained that the PB's review engineer requires more detail than is provided in the letter from the design engineer, and that the peer review engineer needs to confirm the remaining work by site inspection. Defoe explained that if the PB were to release Lot 4, the remaining lot has an estimated sales value of \$500,000. Planning Administrator Mansfield explained that it is not just the cost of remaining roadway and infrastructure work involved, but the cost to complete the subdivision as a whole that must be reflected in the surety amount.

Abutter Teresa Winstead (West St) spoke in support of Defoe's work, explaining that the situation is much different than with the prior developer, and that in her opinion Defoe has accomplished more work at the site in 2 ½ months than his predecessor did in 2 ½ years. She asked, as an abutter, that the Board do what it can to expedite the completion of this development. Abutter Charles Tilford (West St) said that he is new to town, and his lot abuts Lot 4 of the site. He commented that water is running onto West St from the site. Winstead explained that the new owner had to remove much debris from the site, and that in her opinion, this was a temporary phenomenon, with runoff now running clear. She again asked the Board to release the lot so this project could progress.

Vice Chair Stevens asked Conservation Administrator Willard if ConsCom's issues have been addressed at this site. Willard said that some of the important ones have been addressed, with others underway. She said that she has reviewed several points with Defoe, and that he is listening to, hearing, and addressing her concerns. Planning Administrator Mansfield said that he will contact Nitsch Engineering and ask them to visit the site within the next two weeks, provide information on the remaining work, and then the applicant's engineer can respond to that information.

Vice Chair Stevens explained that the assessed value of one unimproved, buildable lot (land only) is about \$235,000, and that this would be the approximate assessment of Lot 2, for which the developer is not requesting release at this time. He said that he would be in favor of releasing Lot 4 from the Covenant, and that he is encouraged to hear good news from the abutters regarding Defoe's work.

Rolfe moved that the Board release Lot 4 of the Lion's Gate Subdivision from the subdivision Covenant, Vice Chair Stevens seconded the motion, and it was approved 3-2 (Walsh and Yelle opposed).

Documents on record used in the discussion of this topic (on file in the PB office):

- Email from Jill Defoe to George Mansfield dated 6/24/19 re: "land release"
- Letter from Meisner Brem Corp to Carlisle Planning Board dated 7/9/19 re: 570 West Street – "Lion's Gate" Subdivision" and attached documents

**ANR Plan: 46 Virginia Farme Lane (Map 20, Lot 36-3), Mosaic Homes LLC (Paul Gaboury, applicant)**

Gaboury explained that the purpose of this plan is to create and convey small parcels of land of equal area between the two lots created by his prior ANR for this address. The goal is to create more frontage along Virginia Farme Lane for the new lot 1B (southerly lot), which he owns, in order to allow access to/from the lot via Virginia Farme Lane (rather than the private section of Munroe Hill Rd).

Gaboury also explained that he is requesting a waiver of part of the ANR filing fee, and he had submitted a written request to the Board. He explained that the fee for his prior ANR in late 2018 was \$700, as it created two new lots, and said that he did not realize until the discussion of that ANR that part of Munroe Hill Rd was a private way, or he would have perhaps drawn that ANR differently. He asked for waiver of the fee for creating 4 new parcels, which would reduce the fee from \$1200 to \$200.

On discussion, the Board proposed a compromise to eliminate the fees for creation of the two small parcels, resulting in a \$700 fee. Rolfe moved and Walsh seconded a reduction in the filing fee for this ANR from \$1200 to \$700, and the motion was approved 4-1 (Yelle opposed).

Document on record used in the discussion of this topic (on file in the PB office):

- “Plan of Land for Virginia Farm Lane and Munroe Hill Road in Carlisle, MA” dated 7/10/19 and prepared by Foresite Engineering, Stow, MA, for Mosaic Homes, LLC, Acton, MA

#### **Liaison Report**

Vice Chair Stevens explained that at a recent Selectmen’s meeting, Abacus architects and Planners (Boston, MA) has completed a feasibility study for a community center on Banta Davis land behind the group homes at 338 Bedford Rd. This study was funded by a portion of a Community Health Network Area (CHNA) grant accessed by the Board of Health, and that the oversight of this work is collaboration between the BOH, COA and PB. Stevens described the proposed conceptual community center structure as a 15, 000 sq. ft. single story building with meeting rooms, recreation rooms, a small auditorium and possibly a pool. It would be usable by all ages. Planning Administrator Mansfield explained that this feasibility study resulted from a 2017 survey of Town residents to gather their input (Caring for Carlisle survey). Vice Chair Stevens said that the study presented 3 options regarding the use of the land.

#### **Master Plan Steering Committee update**

Planning Administrator Mansfield reported that there have been three responses to the Request for Proposals (RFP) from consultants for development of the Master Plan: from VHB, Civic Moxie, and Territory North America LLC. Interviews with these firms are planned for August 1 and 2.

#### **Lapse of Common Driveway Special Permit for 61 Judy Farm Road (Adam Ostrow, applicant) 4<sup>th</sup> extension expired June 30, 2019 without exercise of the rights of the permit.**

Planning Administrator Mansfield summarized that there have been 4 extensions granted for this special permit, the most recent of which expired 6/30/19. He referred to the 6/18/19 preconstruction meeting with the permit holder, Adam Ostrow, and others, at which specific initial work was agreed upon, and a written timeline of work was provided by Ostrow for items to be underway or completed by 6/30/19. He reported that this work has not even been started. Planning Administrator Mansfield recommended that this special permit be rescinded by the Board, and that if Ostrow is interested in constructing this common driveway, he should begin the application process again, and include the new owner of his former residence at 61 Judy Farm Rd in the application.

Walsh moved that the PB rescind the Common Driveway Special Permit for Elizabeth Nilson and Adam Ostrow for 61 Judy Farm Rd. Misk seconded the motion, and it was approved unanimously (5-0). A letter will be forwarded to Ostrow, his attorney and his developer regarding this decision.

Document on record used in the discussion of this topic (on file in the PB office):

- “Decision on Special Permit for Common driveway for Elizabeth Nilson and Adam Ostrow for 61 Judy Farm Road” dated 11/24/14.

At 10:25 pm, Walsh moved to adjourn the PB meeting, Rolfe seconded the motion and it was approved unanimously (5-0).

Respectfully Submitted,

Gretchen Caywood  
Assistant to Planner  
Carlisle Planning Board